JAN 2 3 2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In Re Application of:)
James C. Colson et al.   )
)
Serial No.:09/737,341   )   Group Art Unit: 2171
)
Filed: December 15, 2000   )   Examiner:Cam Linh T. Nguyen
)
FOR: SYSTEM, METHOD AND   )
       PROGRAM PRODUCT   )
       PRIORITIZING SYNCHRONIZABLE   )
       DATA   )

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JAN 2 8 2004

Technology Center 2100

Mail Stop APPEAL BRIEF - PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The following items are enclosed:

1. Brief of Appellants (in triplicate);
2. Fee Transmittal form in payment of the Appeal Brief;
3. Stamped, self-addressed postcard to be returned.

Appellants believe that no additional fees are necessary. If additional fees are necessary, however, please charge Deposit Account 09-0447 (Docket No: AUS9-2000-0611-US1).

Respectfully submitted,

SHAFFER & CULBERTSON, L.L.P.

Dated: January 20, 2004   By:_____
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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Mail Stop Appeal Brief - Patent, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450
Russell D. Culbertson, Reg. No. 32,124_____ Date of Deposit: Jan. 20, 2004
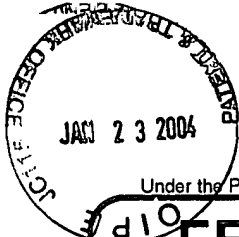
FEE TRANSMITTAL
for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

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JAN 2 8 2004
Technology Center 2100

Complete if Known	
Application Number	09/737,341
Filing Date	12/15/2000
First Named Inventor	James C. Colson
Examiner Name	Cam Linh T. Nguye
Art Unit	2171
Attorney Docket No.	AUS9-2000-0611-US1 (157-956)

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT	($) 330.00

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None

☐ Deposit Account:

Deposit Account Number: 09-0447

Deposit Account Name: IBM Corporation

The Director is authorized to: *(check all that apply)*

☑ Charge fee(s) indicated below ☑ Credit any overpayments
☑ Charge any additional fee(s) or any underpayment of fee(s)
☐ Charge fee(s) indicated below, except for the filing fee
to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

Large Entity		Small Entity			
Fee Code	Fee ($)	Fee Code	Fee ($)	Fee Description	Fee Paid
1001	770	2001	385	Utility filing fee	
1002	340	2002	170	Design filing fee	
1003	530	2003	265	Plant filing fee	
1004	770	2004	385	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	

SUBTOTAL (1) ($)

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

	Extra Claims		Fee from below	Fee Paid
Total Claims	-20** =	X	=	
Independent Claims	- 3** =	X	=	
Multiple Dependent			=	

Large Entity		Small Entity			
Fee Code	Fee ($)	Fee Code	Fee ($)	Fee Description	
1202	18	2202	9	Claims in excess of 20	
1201	86	2201	43	Independent claims in excess of 3	
1203	290	2203	145	Multiple dependent claim, if not paid	
1204	86	2204	43	** Reissue independent claims over original patent	
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent	

SUBTOTAL (2) ($) 0.00

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity		Small Entity			
Fee Code	Fee ($)	Fee Code	Fee ($)	Fee Description	Fee Paid
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for *ex parte* reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	420	2252	210	Extension for reply within second month	
1253	950	2253	475	Extension for reply within third month	
1254	1,480	2254	740	Extension for reply within fourth month	
1255	2,010	2255	1,005	Extension for reply within fifth month	
1401	330	2401	165	Notice of Appeal	
1402	330	2402	165	Filing a brief in support of an appeal	330.00
1403	290	2403	145	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,330	2453	665	Petition to revive - unintentional	
1501	1,330	2501	665	Utility issue fee (or reissue)	
1502	480	2502	240	Design issue fee	
1503	640	2503	320	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	770	2809	385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	770	2810	385	For each additional invention to be examined (37 CFR 1.129(b))	
1801	770	2801	385	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify) _____

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) ($) 330.00

SUBMITTED BY

(Complete *(if applicable)*)

Name (Print/Type)	Russell D. Culbertson	Registration No. (Attorney/Agent)	32,124	Telephone	512-327-8932
Signature				Date	January 20, 2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In Re Application of:)	**RECEIVED**
James C. Colson et al.)	
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BRIEF OF APPELLANTS

This is an appeal from the Final Office Action mailed September 10, 2003, rejecting

Claims 1 through 22 in the above-identified application. Appellants hereby submit an original

and two copies of this Appeal Brief to the Board of Patent Appeals and Interferences within the

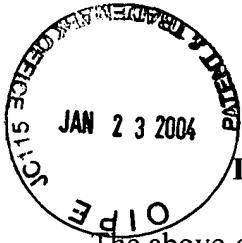two month period following the Notice of Appeal filed November 17, 2003.

This Brief of Appellants is accompanied by an authorization (Fee Transmittal form

PTO/SB/17) to charge Deposit Account No: 09-0447 for the fee of $330.00 due under 37 C.F.R.

§1.17(b) together with any additional fees which may be required for filing this Brief.

1   **I. REAL PARTY IN INTEREST (37 C.F.R. §1.192(c)(1))**

2   The above-described patent application is assigned to International Business Machines

3   Corporation ("IBM"), the real party in interest.

4

5   **II. RELATED APPEALS AND INTERFERENCES (37 C.F.R. §1.192(c)(2))**

6   There is no related Appeal or Interference before the United States Patent and Trademark

7   Office.

8

9   **III. STATUS OF THE CLAIMS (37 C.F.R. §1.192(c)(3))**

10   The status of the claims is as follows:

11   Allowed Claims: None

12   Claims to which Objections apply: None

13   Claims withdrawn from consideration: None

14   Claims Rejected: 1 through 22

15   Claims Appealed: 1 through 22

16

17   **IV. STATUS OF AMENDMENTS (37 C.F.R. §1.192(c)(4))**

18   The above-described application was filed with Claims 1 through 22 which were

19   amended on July 16, 2003 in response to the first Office Action. The claims reproduced in the

20   accompanying Appendix reflect the state of Claims 1 through 22 as they currently stand in this

21   case. An amendment is being filed under C.F.R. §1.116 concurrently with this Appeal Brief, in

1   order to correct antecedent basis errors in Claims 13 and 14. These proposed amendments

2   remain unentered in the case at this time.

3

4   **V. SUMMARY OF THE INVENTION (37 C.F.R. §1.192(c)(5))**

5   The present invention provides a system for implicit prioritization of synchronizable data.

6   The system includes a sync engine component 11 for receiving a sync session request from a

7   client device (page 11, lines 6-8). In response to the sync session request, the sync engine

8   component 11 reads a selected prioritization scheme which is associated with a system user, and

9   produces a prioritized data set based on the selected prioritization scheme (page 23, lines 2-7). In

10   addition, the system includes a data store storage arrangement 12 that is accessible to sync engine

11   component 11. The data store storage arrangement 12 stores objective data to which the client

12   device may be synchronized, stores metadata related to the objective data, and is useful in

13   effecting a plurality of available prioritization schemes (page 16, lines 3-14).

14   The system of the present invention further includes an available scheme storage

15   arrangement 16 that stores the plurality of available prioritization schemes and a scheme

16   selection component 41 that enables a user to choose the selected prioritization scheme from the

17   plurality of available prioritization schemes (page 12, lines 5-13 and page 19, lines 2-5). The

18   scheme selection component 41 also enables the user to choose an additional selected

19   prioritization scheme to be used by sync engine component 11 in lieu of the selected

20   prioritization scheme (page 20, lines 4-8).

21   Sync engine component 11 includes a data retrieval subcomponent for retrieving

22   particular metadata and objective data from data store storage arrangement 12 based on the

23   selected prioritization scheme (page 23, lines 8-19). An additional component of the system is

24   formula storage arrangement 17 that stores a plurality of prioritization formulas (page 11, lines

25   15-19). Each prioritization formula effects one of the available prioritization schemes for a given

26   combination of sync session parameters to produce a desired prioritized data set (page 25, lines

27   6-10).

1   Sync engine component 11 also includes a prioritization formula retrieval subcomponent

2   for retrieving one of the prioritization formulas from the formula storage arrangement 17 based

3   on the selected prioritization scheme and at least one sync session parameter (page 24, line 17

4   through page 25, line 5). Sync engine component 11 applies the retrieved prioritization formula

5   to the retrieved metadata and to the at least one sync session parameter to produce the prioritized

6   data set (page 25, lines 6-10). Also included in sync engine component 11 are a request

7   characteristic recognition subcomponent for recognizing request characteristics from the received

8   sync session request and a session parameter mapping subcomponent for retrieving at least one

9   sync session parameter as dictated by the recognized request characteristics (page 22, lines 4-16

10   and page 24, lines 1-16).

11   The present invention also includes a method for implicit prioritization of synchronizable

12   data. The method includes the steps of responding to a sync session request from a client device

13   by reading a selected prioritization scheme associated with a user initiating the sync session

14   request, retrieving scheme effecting data necessary in effecting the selected prioritization scheme,

15   and producing a prioritized data set based on the selected prioritization scheme (page 23, lines 2-

16   10).

17   The method of the present invention also includes enabling the user to choose the selected

18   prioritization scheme from a plurality of available prioritization schemes and enabling the user to

19   choose an additional selected prioritization scheme on which the prioritized data set may be

20   based in lieu of the selected prioritization scheme (page 19, lines 17-18 and page 20, lines 4-8).

21   Also included in a method according to the present invention are the steps of retrieving a

22   particular prioritization formula from a plurality of stored prioritization formulas based on the

23   selected prioritization scheme and at least one sync session parameter and applying the retrieved

24   prioritization formula to the retrieved scheme effecting data and each sync session parameter to

25   produce the prioritized data set (page 24, line 17 through page 25 line 10).

26   Additionally, the method includes recognizing request characteristics from the received

27   sync session request. The request characteristics include an identification for the requesting user,

28   the client device type, and the communications type to be used in the requested sync session

1 (page 22, lines 4-16). The recognized request characteristics are used in retrieving the at least

2 one sync session parameter from storage (page 24, lines 11-13).

3 The present invention implements a computer program product stored on a computer

4 readable medium and executable by a processor that includes scheme reading program code 50

5 that responds to a sync session request by reading a selected prioritization scheme associated

6 with a user initiating the sync session request (page 14, line 10 through page 15, line 5). Data

7 retrieval program code 51 retrieves scheme effecting data necessary in effecting the selected

8 prioritization scheme and prioritization program code 52 produces a prioritized data set based on

9 the selected prioritization scheme (page 15, lines 7-10). Prioritization program code 52 applies

10 the retrieved prioritization formula to the retrieved scheme effecting data and the at least one

11 sync session parameter to produce the prioritized data set (page 15, lines 10-14). The data

12 retrieval program code 51 also collects and stores objective data to which the client device is to

13 be synchronized (page 23, lines 14-16).

14 The computer program product of the present invention also includes scheme selection

15 program code that enables a user to choose the selected prioritization scheme from a plurality of

16 available prioritization schemes and stores the selected prioritization scheme for the user (page

17 18, line 18 through page 19, line 1).

18 Formula retrieval program code 53 retrieves a particular prioritization formula from a

19 plurality of stored prioritization formulas based on the selected prioritization scheme and at least

20 one sync session parameter (page 15, lines 14-18). In addition, characteristic recognition

21 program code 55 recognizes request characteristics from the received sync session request (page

22 16, lines 1-2), parameter mapping program code 54 uses the recognized request characteristics to

23 retrieve the at least one sync session parameter from storage (page 15, lines 18-20), and metadata

24 collection program code collects and stores metadata that is useful in effecting a plurality of

25 prioritization schemes (page 17, line 18 through page 18, line 14).

26

27

4

VI. ISSUES ON APPEAL (37 C.F.R. §1.192(c)(6))

1.   The Examiner rejected Claims 1 through 22 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,321,236 to Zollinger, et al. (the "Zollinger Patent"). The issue in this appeal may be stated as follows:

Would the invention set out in Claims 1 through 22 have been obvious under 35 U.S.C. §103(a) in view of the Zollinger patent?

VII. GROUPING OF THE CLAIMS (37 C.F.R. §1.192(c)(7))

It is Appellants' intention that the rejected claims be grouped as follows:

Group A   1 through 6

Group B   7 through 13

Group C   14 through 22

As to Group A, it is Appellants' intention that Claim 6 stands or falls together with independent Claim 1. The Appellants' believe that Claims 2 through 5 are allowable independently of Claim 1.

As to Group B, it is Appellants' intention that Claims 10, 11, and 13 stand or fall together with independent Claim 7. Claims 8, 9, and 12 are allowable independently of Claim 7.

As to Group C, it is Appellants' intention that Claims 19, 20, and 22 stand or fall together with independent Claim 14. Claims 15 through 18 and 21 are allowable independently of Claim 14.

VIII. ARGUMENT (37 C.F.R. §1.192(c)(8))

CLAIMS 1-22 ARE EACH PATENTABLE OVER THE ZOLLINGER PATENT

The Examiner's rejection of Claims 1 through 22 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,321,236 to Zollinger, et. al. ("Zollinger" or "the Zollinger Patent") is in error because the rejection does not establish a prima facie case of obviousness. More particularly, the Zollinger Patent does not teach or suggest all of the claim limitations set out in independent Claims 1, 7, and 14. In addition, there is no suggestion or motivation in the record to modify the reference as suggested by the Examiner.

The Zollinger Patent

The Zollinger Patent is directed to a data synchronization system that particularly addresses the problem of updating remote copies of a data store where there is no continuous communication path between the central data store and the remote copies. In order to minimize the amount of data that must be transferred to the remote client to perform an update, Zollinger creates update sets periodically at the central data store by comparing a current version of the data store to a stored reference version. The result is a set of update data that includes just the data representing the differences between the reference version and the current data store version. This update data is then used to update the remote data stores as updates are requested.

It is important to note that the Zollinger Patent does not teach or suggest any system or method for synchronizing prioritized, that is, preferentially ordered data, between a client and a data store. In each case, the system described in Zollinger updates whole data tables without regard to any order of the data. Even where a client is authorized to obtain updates for only some

1   database tables from an entire store, the data for the authorized tables is not arranged in any

2   preferential order and is thus not prioritized. The Zollinger system provides no mechanism for

3   updating a client database from a prioritized, that is, preferentially ordered set of data from the

4   central data store.

5

6   <u>Zollinger Fails to Teach or Suggest all of the Elements Set Out in the Claims</u>

7   <u>Claim 1</u>

8   Claim 1 is directed to a method for implicit prioritization of synchronizable data. The

9   method includes responding to a sync session request from a client device by reading a selected

10 prioritization scheme associated with a user initiating the sync session request. The method also

11 includes producing a prioritized data set based on the selected prioritization scheme. The word

12 "prioritize" means to list or rate in order of priority, and "priority" means a preferential rating or

13 superiority in rank, position, or privilege. Webster's Ninth New Collegiate Dictionary, Merriam-

14 Webster Inc. 1985. Thus, a "prioritization scheme" as set out in Claim 1 includes a scheme to

15 list or rate in some order of preferential rating or by rank, position, or privilege. A "prioritized

16 data set" as set out in Claim 1 includes a set of data that is listed or rated in order of preferential

17 rating or in some order of rank, position, or privilege.

18   In forming the rejection in view of the Zollinger Patent the Examiner concedes that the

19 reference does not clearly teach prioritization schemes. In order to make the rejection, the

20 Examiner found the Appellants' claimed prioritization schemes to correspond to, or to be

21 obvious in view of, the profile database discussed at Col. 8, lines 15-28 of the Zollinger reference

22 (Final Office Action, lines 12-18 of page 3). The Appellants disagree with this assessment.

1   The profile database referred to in Zollinger, particularly at the top of Col. 8, contains

2   information necessary to validate a client requesting an update, and information, such as client

3   database engine information for example, that is necessary to allow the server to place the update

4   data in a form suitable for the requesting client. The profile database in Zollinger also stores "a

5   list of database tables authorized for update by a client." However, the profile database in

6   Zollinger does not provide any information that would allow data from the data store to be

7   prioritized, that is, placed in some preferential order. A mere list of database tables taken from a

8   larger list of tables does not represent a scheme or plan for producing a preferential ordering or

9   ranking of data. The listing of updatable database tables taught by Zollinger is not a "scheme" in

10   any sense of the word, and certainly not a prioritization scheme, that is, a scheme for preferential

11   ordering or ordering by rank, position, or privilege.

12   In the Final Office Action at the top of page 6, the Examiner refers to the meaning of the

13   word "priority" as "superiority in rank, position, or privilege," with the Examiner placing

14   emphasis on the word "privilege." Based on this meaning of the word "priority" the Examiner

15   concludes,

16   Therefore, "a list of database tables authorized for update by the client" in

17   Zollinger is [sic] also means "priority" because this list of table [sic] is considered

18   "privilege" compared with other tables in the database." Final Office Action,

19   page 6, lines 4-6.

20   However, using the Examiner's meaning of "priority," a prioritized data set would be a

21   data set listed or rated in order of superiority in rank, position, or privilege and a prioritization

22   scheme would be a scheme for producing such a data set. Even using the Examiner's definition

8

1   the "list of database tables authorized for update by the client" referenced in the Zollinger Patent

2   does not represent a prioritization scheme because it is not scheme for listing or rating in **order**

3   of rank, position, or privilege. That is, the "list of database tables authorized for update by the

4   client" referenced in the Zollinger Patent does not represent any scheme for producing any

5   particular **order** of data. Rather, the "list of database tables authorized for update by the client"

6   referenced in the Zollinger Patent merely identifies tables for updating regardless of any order

7   either among the tables themselves or the data in the tables.

8   In the Office Action, the Examiner pointed to step 110 in Figure 6 of the Zollinger Patent

9   as disclosing the step of producing a prioritized data set based on the selected prioritization

10   scheme as required by element (c) of Appellants' Claim 1. However, this step includes only

11   transmitting to the client update instructions for each database table and the current version

12   number. Nothing in the description of step 110 in the Zollinger Patent suggests any element in

13   the Zollinger system that produces a prioritized data set, that is, a preferentially ordered or

14   ranked, data set. Being a synchronization system, Zollinger certainly does suggest sending data

15   to the client databases. However, the data Zollinger sends to the client is not ranked or listed in

16   any preferential order or order of rank, position, or privilege. The data sent to the client device in

17   the Zollinger Patent is merely data to be used in updating database tables at the client regardless

18   of any order or ranking of the transmitted data.

19   The two examples set out in the present application beginning at page 25, line 19 through

20   page 31, line 12, are especially helpful in understanding the present invention and illustrating the

21   differences between the Zollinger system and the invention set out in Claim 1. The prioritization

22   scheme applied in each example is entitled "most used" which ranks data according to a

1   frequency of use parameter. In each example, the prioritized data set includes a ranking of the

2   most frequently used records from the source database and the most frequently used data in each

3   record. The prioritization allows the more limited target database to obtain the most important

4   data, that is, the most important data as determined by the defined priority. This is in contrast to

5   the system disclosed in the Zollinger Patent which does not order or rank data in the tables

6   transmitted to the client device.

7   Because the Zollinger Patent does not teach or suggest the steps of reading a prioritization

8   scheme in response to a sync request and does not teach or suggest the creation of any prioritized

9   data set, the Appellants submit that Claim 1 is entitled to allowance together with its dependent

10   claims, Claims 2 through 6.

11

12   <u>Claim 7</u>

13   Claim 7 is directed to a computer program product for prioritizing synchronizable data.

14   The computer program product includes scheme reading program code for responding to a sync

15   session request by reading a selected prioritization scheme associated with a user initiating the

16   sync session request. The program product also includes data retrieval program code for

17   retrieving scheme effecting data necessary in effecting the selected prioritization scheme, and

18   prioritization program code for producing a prioritized data set based on the selected

19   prioritization scheme.

20   As discussed above with reference to Claim 1, the Zollinger Patent does not teach or

21   suggest a prioritization scheme and thus cannot teach or suggest program code for reading such a

22   scheme in response to a sync session request, or any program code for retrieving data necessary

1   to effect such as scheme. Furthermore, nothing in the Zollinger Patent teaches or suggests

2   prioritization program code for actually producing a prioritized data set based on the selected

3   prioritization scheme. The "list of database tables authorized for update by the client" in

4   Zollinger which is relied upon by the Examiner is not a scheme for placing data in some order.

5   For these reasons, the Appellants submit that Claim 7 is entitled to allowance together with its

6   dependent claims, Claims 8 through 13.

7

8   Claim 14

9   Independent Claim 14 is directed to a system for implicit prioritization of synchronizable

10   data, and includes limitations related to a prioritization scheme and to a prioritized data set

11   similarly to the independent method and program product claims, Claims 1 and 7, respectively.

12   In particular, element (a) of Claim 14 requires a sync engine component that responds to a sync

13   session request from a client device by reading a selected prioritization scheme which is

14   associated with a system user, and producing a prioritized data set based on the selected

15   prioritization scheme. As set forth in detail above, the Zollinger Patent does not teach or suggest

16   either a prioritization scheme or prioritized data set, and thus does not teach any system

17   component for reading such a scheme in response to a client device request or producing a

18   prioritized data set based on the selected scheme. For these reasons, the Appellants submit that

19   Claim 14 is entitled to allowance together with its dependent claims, Claims 15 through 22.

20

21

Claims 2-5, 8-9, 12, 15-18, and 21 are Each Independently Patentable Over the Zollinger Patent

Claims 2-5, 8-9, 12, 15-18, and 21 are not only entitled to allowance as being dependent upon an allowable independent claim, but also include further limitations not taught or suggested by the Zollinger Patent. Thus, the Examiner erred in rejecting Claims 2-5, 8-9, 12, 15-18, and 21 in view of the Zollinger Patent.

The Appellants first note that the Final Office Action cites Col. 8, lines 15-28 of the Zollinger Patent as disclosing or suggesting most of the elements set out in the dependent claims in this case. In particular, the Final Office Action indicates that the cited text of the Zollinger Patent teaches or suggests enabling a user to choose among different prioritization schemes (Claims 2, 8, and 15), enabling a user to choose an additional prioritization scheme (Claims 3 and 16), and prioritization formula to effect a prioritization scheme (Claims 4, 9, and 17). However, the language cited at Col. 8, lines 15-28, is simply silent as to each of these features.

Claim 2 requires enabling a user to choose a selected prioritization scheme and Claim 3 requires enabling a user to choose an additional prioritization scheme on which a prioritized data set is to be based. As discussed earlier, the Zollinger Patent does not teach or suggest the use of prioritization schemes or producing a prioritized data set. Zollinger certainly does not teach or suggest additional or different prioritization schemes from which a user may choose.

Claim 4 requires retrieving a particular prioritization formula based on the selected prioritization scheme and at least one sync session parameter, and applying the retrieved prioritization formula to the retrieved scheme effecting data and each sync session parameter to produce a prioritized data set. Since the Zollinger patent does not disclose the use of

12

1   prioritization formulas or the production of a prioritized data set, it cannot teach or suggest the

2   limitation in Claim 4.

3   Claim 5 further requires recognizing request characteristics from a sync session request

4   including an identification for the requesting user, the client device type, and the communications

5   type to be used in the requested sync session. The Final Office Action fails to cite any teaching

6   or suggestion in the prior art of recognizing a communications type from a sync session request.

7   Consequently, Claim 5 is allowable independently of Claim 1.

8   Claim 8 requires program code that enables a user to choose the selected prioritization

9   scheme from among a number of available schemes and then stores the selected scheme for the

10   user. Claim 9 requires program code for retrieving and applying a particular prioritization

11   formula to produce a prioritized data set. Claim 12 requires program code that collects and

12   stores metadata that is used in effecting a plurality of prioritization schemes. As previously

13   discussed, the Zollinger Patent does not disclose prioritization schemes, nor does it disclose

14   enabling a user to select a particular prioritization scheme, the use of prioritization formulas, or

15   the collection and storage of metadata used to effect a number of prioritization schemes.

16   Because the cited prior art does not teach or suggest the limitations required in Claims 8, 9, and

17   12, the Appellants submit that these claims are in condition for allowance independent of Claim

18   7.

19   Claim 15 requires that the prioritization system include a scheme storage arrangement for

20   storing a plurality of available prioritization schemes and Claim 16 further requires a component

21   that enables a user to choose an additional selected prioritization scheme. The Zollinger Patent

22   does not teach or suggest a prioritization scheme and certainly not multiple schemes with a

1   facility for enabling a user to choose between schemes. Claim 17 requires a sync engine

2   component for retrieving particular metadata and objective data based on the selected

3   prioritization scheme. Zollinger is silent as to any device for retrieving metadata based on any

4   selected prioritization scheme. Claim 18 requires an arrangement for storing a plurality of

5   prioritization formulas that each effect a prioritization scheme, and a sync engine component that

6   retrieves and applies the retrieved prioritization formula to produce a prioritized data set. Since

7   Zollinger does not suggest any way to produce a prioritized data set, it cannot teach or suggest an

8   arrangement for storing prioritization formulas to effect the schemes. Finally, Claim 21 requires

9   a prioritization scheme storage arrangement for storing a plurality of available prioritization

10   schemes. As prioritization schemes are not disclosed in the Zollinger Patent, the reference does

11   not teach or suggest such a scheme storage arrangement.

12   For all of these reasons, the Appellants believe that Claims 2-5, 8-9, 12, 15-18, and 21 are

13   each independently allowable over the art of record in the case in addition to being allowable as

14   being dependent upon a respective allowable base claim.

15

16   There is No Suggestion or Motivation to Modify the Cited Reference as Suggested by the
17   Examiner
18
19   The Appellants respectfully submit that there is no suggestion or motivation to modify the

20   Zollinger Patent as proposed by the Examiner in order to meet the Appellants' claim limitations.

21   As discussed above, the Zollinger Patent does not teach or suggest any prioritization scheme or

22   creating any prioritized data set as required in the Appellants' claims. Zollinger discloses only

23   using update data sets to make client copies of a data table current with a central or parent data

1 store. The only suggestion of prioritizing data for the purpose of synchronization between one

2 database and another database is found in the Appellants' own disclosure. It is well established

3 that a modification of a reference under Section 103 may not be made based on the teachings of

4 an Appellant's own disclosure. Rather the teaching, suggestion, or motivation must come from

5 the prior art.

6   Because the prior art provides no suggestion or motivation to modify the system shown in

7 the Zollinger Patent so as to include all of the elements set out in Claims 1, 7, and 14, these

8 claims are not obvious in view of the cited reference and are entitled to allowance together with
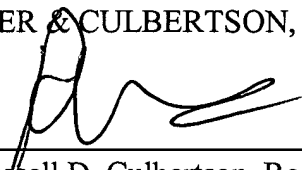
9 their respective dependent claims.

10

11

CONCLUSION

For all of these reasons, the Appellants submit that Claims 1 through 22 are not obvious

in view of the cited references and are entitled to allowance. The Appellants respectfully request

that the Board reverse the decision of the Examiner rejecting Claims 1 through 22.
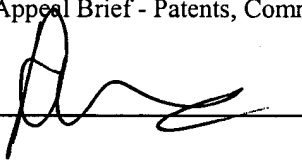
Respectfully submitted,

SHAFFER & CULBERTSON, L.L.P.

Date: January 20, 2004

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail
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Alexandria, VA 22313-1450

Russell D. Culbertson, Reg. No. 32,124 _____   Date of Deposit: 20 Jan 2004

16

CLAIMS INVOLVED IN THE APPEAL (37 C.F.R. §1.192(c)(9))

1. A method for implicit prioritization of synchronizable data, the method including the steps of:

   (a) in response to a sync session request from a client device, reading a selected prioritization scheme associated with a user initiating the sync session request;

   (b) retrieving scheme effecting data necessary in effecting the selected prioritization scheme; and

   (c) producing a prioritized data set based on the selected prioritization scheme.

2. The method of Claim 1 further including the step of:

   (a) enabling the user to choose the selected prioritization scheme from a plurality of available prioritization schemes.

3. The method of Claim 2 further including the step of:

   (a) enabling the user to choose an additional selected prioritization scheme on which the prioritized data set may be based in lieu of the selected prioritization scheme.

1   4.   The method of Claim 1 further including the steps of:

2   (a)   retrieving a particular prioritization formula from a plurality of stored

3   prioritization formulas based on the selected prioritization scheme and at least one

4   sync session parameter; and

5   (b)   applying the retrieved prioritization formula to the retrieved scheme effecting data

6   and each sync session parameter to produce the prioritized data set.

7

8   5.   The method of Claim 4 further including the step of:

9   (a)   recognizing request characteristics from the received sync session request, the

10   request characteristics including an identification for the requesting user, the client

11   device type, and the communications type to be used in the requested sync

12   session.

13

14   6.   The method of Claim 5 further including the step of:

15   (a)   using the recognized request characteristics in retrieving the at least one sync

16   session parameter from storage.

17

18   7.   A computer program product stored on a computer readable medium and executable by a

19   processor for prioritizing synchronizable data, the computer program product including:

20   (a)   scheme reading program code for responding to a sync session request by reading

21   a selected prioritization scheme associated with a user initiating the sync session

22   request;

1	(b)	data retrieval program code for retrieving scheme effecting data necessary in
2		effecting the selected prioritization scheme; and
3	(c)	prioritization program code for producing a prioritized data set based on the
4		selected prioritization scheme.
5		
6	8.	The computer program product of Claim 7 further including:
7	(a)	scheme selection program code enabling a user to choose the selected
8		prioritization scheme from a plurality of available prioritization schemes and
9		storing the selected prioritization scheme for the user.
10		
11	9.	The computer program product of Claim 7:
12	(a)	further including formula retrieval program code for retrieving a particular
13		prioritization formula from a plurality of stored prioritization formulas based on
14		the selected prioritization scheme and at least one sync session parameter; and
15	(b)	wherein the prioritization program code applies the retrieved prioritization
16		formula to the retrieved scheme effecting data and the at least one sync session
17		parameter to produce the prioritized data set.
18		
19	10.	The program product of Claim 9 further including:
20	(a)	characteristic recognition program code for recognizing request characteristics
21		from the received sync session request.
22		

1   11.   The computer program product of Claim 10 further including:

2   (a)   parameter mapping program code for using the recognized request characteristics

3   to retrieve the at least one sync session parameter from storage.

4

5   12.   The computer program product of Claim 7 further including:

6   (a)   metadata collection program code for collecting and storing metadata useful in

7   effecting a plurality of prioritization schemes.

8

9   13.   The computer program product of Claim 12 wherein:

10   (a)   · the data store program code also collects and stores objective data to which the

11   client device is to be synchronized.

12

13   14.   A system for implicit prioritization of synchronizable data, the system including:

14   (a)   a sync engine component for receiving a sync session request from a device, and,

15   in response to the sync session request, for reading a selected prioritization

16   scheme which is associated with a system user, and for producing a prioritized

17   data set based on the selected prioritization scheme; and

18   (b)   a data store storage arrangement accessible to the sync engine component, the data

19   store storage arrangement storing objective data to which the client device may be

20   synchronized and further storing metadata related to the objective data and useful

21   in effecting a plurality of available prioritization schemes.

22

1   15.   The system of Claim 14 further including:

2   (a)   an available scheme storage arrangement storing the plurality of available

3   prioritization schemes; and

4   (b)   a scheme selection component enabling a user to choose the selected prioritization

5   scheme from the plurality of available prioritization schemes.

6

7   16.   The system of Claim 15 wherein:

8   (a)   the scheme selection component also enables the user to choose an additional

9   selected prioritization scheme to be used by the sync engine component in lieu of

10   the selected prioritization scheme.

11

12   17.   The system of Claim 14 wherein the sync engine component includes a data retrieval

13   subcomponent for retrieving particular metadata and objective data from the data store

14   storage arrangement based on the selected prioritization scheme.

15

16   18.   The system of Claim 17:

17   (a)   further including a formula storage arrangement storing a plurality of

18   prioritization formulas, each prioritization formula effecting one of the available

19   prioritization schemes for a given combination of sync session parameters to

20   produce a desired prioritized data set;

21   (b)   wherein the sync engine component includes a prioritization formula retrieval

22   subcomponent for retrieving one of the prioritization formulas from the formula

1   storage arrangement based on the selected prioritization scheme and at least one

2   sync session parameter; and

3   (c)   wherein the sync engine component applies the retrieved prioritization formula to

4   the retrieved metadata and to the at least one sync session parameter to produce

5   the prioritized data set.

6

7   19.   The system of Claim 18 wherein the sync engine component includes a request

8   characteristic recognition subcomponent for recognizing request characteristics from the

9   received sync session request.

10

11   20.   The system of Claim 19 wherein the sync engine component includes a session

12   parameter mapping subcomponent for retrieving the at least one sync session parameter

13   as dictated by the recognized request characteristics.

14

15   21.   The system of Claim 14 further including:

16   (a)   a prioritization scheme storage arrangement storing the plurality of available

17   prioritization schemes including the selected prioritization scheme.

18

19   22.   The system of Claim 14 wherein:

20   (a)   the sync engine component comprises a data processing device operating under

21   the control of operational software; and

1   (b)   the data store storage arrangement comprises at least one database stored on at

2   least one data storage device.